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[ADDITIONAL COUNSEL ON SIGNATURE PAGE]

Attorneys for Plaintiff, on behalf of himself and others similarly situated

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

ANDREA RESNICK, GARY BUNKER, JOHN
HALEY, AMY LATHAM, ERIC ROSLANSKY,
and KEVIN SIMPSON, on behalf of themselves
and others similarly situated,
Plaintiffs,

v.

WALMART.COM USA LLC, WAL-MART
STORES, INC., and NETFLIX, INC.,
Defendants.

) Case No. CV-09-0002 (MEJ)

) **NOTICE OF RELATED CASE PURSUANT**
) **TO CIVIL L.R. 3-12 TO BE FILED IN CASE**
) **NO. CV-09-0002 MEJ; ADMINISTRATIVE**
) **MOTION TO CONSIDER WHETHER**
) **CASES SHOULD BE RELATED,**
) **PURSUANT TO CIVIL L.R. 7-11**

1 Plaintiff Michael O'Connor on behalf of himself and others similarly situated (hereinafter
2 "Plaintiff") hereby respectfully submits this Notice of Related Case, Pursuant to Civil L.R. 3-12 and
3 the required Administrative Motion to Consider Whether Cases Should be Related, Pursuant to Civil
4 L. R. 7-11.

5 **I. APPLICABLE STANDARD UNDER CIVIL L.R. 3-12**

6 Under Civil Local Rule 3-12, an "action is related to another when: (1) the actions concern
7 substantially the same parties, property, transaction or event, and (2) it appears likely that there will be
8 an unduly burdensome duplication of labor and expense or conflicting results if the cases are
9 conducted before different Judges." Civil L.R. 3-12(a).

10 Whenever a party knows or believes that an action may be related to an action which is or was
11 pending in the Northern District, said party "must promptly file in the earliest-filed case an
12 Administrative Motion to Consider Whether Cases Should be Related, pursuant to Civil L.R. 7-11."¹
13 Civil L.R. 3-12(b). That motion must include: "(1) The title and case number of each apparently
14 related case; (2) A brief statement of the relationship of the actions according to the criteria set forth in
15 Civil L.R. 3-12(a)."

16 **II. O'CONNOR AND RESNICK ARE RELATED CASES.**

17 The *Resnick* litigation was filed in this Court on January 2, 2009. The *O'Connor* litigation was
18 filed on January 9, 2009 and was assigned Case No. CV-09-0096 (MEJ). These two cases involve the
19 exact same transactions and events, the identical defendants, the identical allegations and causes of
20 action, and the same proposed class of plaintiffs. Accordingly, there will be unduly burdensome
21 duplication of labor and expense and there will be a risk of conflicting results if these cases are
22 conducted before different Judges.

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26 ¹ "In addition to complying with Civil L.R. 7-11, a copy of the motion, together with proof of service
27 pursuant to Civil L.R. 5-6, must be served on all known parties to each apparently related action. A
28 Chambers copy of the motion must be lodged with the assigned Judge in each apparently related case
under Civil L.R. 5-1(b)." Civil L.R. 3-12(b).

1 Dated: January 9, 2009

2 Respectfully submitted,

3 By: /s/ Paul Alexander

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Attorneys for Plaintiff and others similarly situated

CERTIFICATE OF SERVICE

The undersigned declares as follows:

I am a citizen of the United States and employed in San Mateo County, State of California. I am over the age of eighteen years and not a party to the within-entitled action. My business address is 1950 University Avenue, 4th Floor, East Palo Alto, California 94303. On the date set forth below, I served a copy of the following document:

**NOTICE OF RELATED CASE PURUSANT TO CIVIL L.R. 3-12 TO BE FILED
IN CASE NO. CV-09-0002 MEJ; ADMINISTRATIVE MOTION TO CONSIDER
WHETHER CASES SHOULD BE RELATED, PURSUANT TO CIVIL L.R. 7-11**

on the interested following parties in the subject action as indicated below:

Jonathan M. Jacobson
jjacobson@wsgr.com
Wilson Sonsini Goodrich & Rosati
1301 Avenue of the Americas
40th Floor
New York, NY 10019

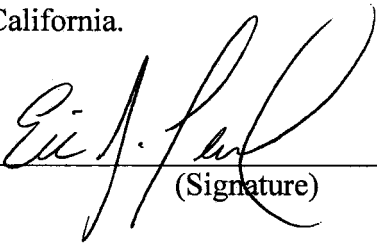
Sara Ciarelli Walsh
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☒ (E-MAIL) I caused the above listed document to be served on the following e-mail addresses: jjacobson@wsgr.com and sciarelli@wsgr.com

I declare under the penalty of perjury under the laws of the State of California and the United States that the above is true and correct.

Executed on January 9, 2009, at East Palo Alto, California.

Eric J. Trostad
(Type or print name)


(Signature)